

RESOLUTION NO. 75929

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS AND MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, ALL FOR THE SUN GARDEN REDEVELOPMENT PROJECT (FILE NO. GP10-06-01 AND PDC10-026), FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED

WHEREAS, approval of the Sun Garden Redevelopment Project described in the Final EIR, defined hereinbelow (the "Project") would require the City of San Jose ("City") to adopt a resolution making findings concerning the significant environmental effects of that action as described in that certain Final Environmental Impact Report for the Sun Garden Redevelopment Project (the "Final EIR"), pursuant to the California Environmental Quality Act of 1970, together with state and local guidelines implementing that Act and all as amended from time to time (collectively, "CEQA"); and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") was completed by the City and released for public and agency review on March 1, 2011; the Draft EIR evaluates the potential environmental effects of the Project, identifies means to eliminate or reduce potential adverse impacts, and identifies a reasonable range of alternatives to the Project; the Final EIR comprises the Draft EIR together with the First Amendment to the Draft EIR, an additional volume that includes the comments on the Draft EIR submitted by public agencies, written responses to the environmental issues raised in those comments, amendments to the text of the Draft EIR reflecting changes made to the Draft EIR in response to comments received, other more recent information obtained, and other minor changes to the text of the Draft EIR; and

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose held a public hearing and gave all persons full opportunity to be heard and to present evidence and testimony respecting said Final EIR; and

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose at said hearing, certified that the Final EIR for the Project was completed in accordance with the requirements of CEQA; and

WHEREAS, no appeal of the certification of the Final EIR by the Planning Commission was filed with the City of San Jose; and

WHEREAS, the City Council of the City of San Jose is the decision-making body for the proposed Sun Garden Redevelopment Project, File No. GP10-07-01 and PDC10-026; and

WHEREAS, CEQA requires that in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects, the decision-making body must make certain findings regarding those significant effects on the environment, as identified in the environmental impact report; and

WHEREAS, this resolution has been prepared to satisfy that findings requirement under CEQA.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL hereby finds that it has independently reviewed and analyzed the Final EIR and other information in the record and has considered the information contained therein including the written and oral comments received at the public hearings on the Final EIR and on the Project, prior to acting upon or approving the Project, and has found that the Final EIR represents the independent judgment and analysis of the City of San Jose as Lead Agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, Tower, 3rd Floor, San José, California 95113, as the custodian of documents and records of proceedings on which this decision is based; and

THAT THE CITY COUNCIL does hereby make the following findings with respect to the significant effects on the environment of the Project, as identified in the Final EIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the Final EIR, which full administrative record should be consulted for the full details supporting these findings; and

THAT THE CITY COUNCIL does hereby adopt and impose the mitigation measures set forth in Exhibit A to this Resolution, the Mitigation Monitoring and Reporting Program, as conditions of approval of the Project; and

THAT THE CITY COUNCIL does hereby approve and adopt the entire Mitigation Monitoring and Reporting Program for the Sun Garden Redevelopment Project.

I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

A. AIR QUALITY

1. Impact

Construction activity emissions associated primarily with painting operations would have a significant air quality impact from ROG emissions.

Mitigation

The painting phase of construction will occur over a minimum of three months or at least 20 percent of all building materials that would normally be painted would use pre-coated or colored materials.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant temporary impact to a **less than significant level**.

2. Impact

Construction activities will result in significant, temporary dust generation.

Mitigation

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day or apply (non-toxic) soil stabilizers.
- All haul trucks transporting soil, sand, or other loose material shall be covered or required to maintain at least two feet of freeboard.
- Water all construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
- Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff related impacts to water quality.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry powered sweeping is prohibited.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water at least twice daily, or apply non-toxic soil binders to expose stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

- Replant vegetation in disturbed areas as quickly as possible.
- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas.
- Suspend excavation and grading activities when instantaneous wind gusts exceed 25 mph.
- Limit the area subject to excavation, grading, and other construction activity at any one time.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and name of construction contact person to report complaints to the Lead Agency regarding dust complaints. This person shall be respond and take corrective action within 49 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant temporary impact to a **less than significant level**.

B. BIOLOGICAL RESOURCES

1. Impact

Construction activities could result in the abandonment of active raptor nests or destruction of other migratory bird nests.

Mitigation

- Construction shall be schedules to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay Area extends from February through August.
- If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no

more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet for raptors and 50-100 feet for other birds, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

2. Impact

Implementation of the proposed project will result in the loss of 28 trees on the project site.

Mitigation

- All trees that are to be removed shall be replaced at ratios required by the City.
- It is estimated, based on the site plan, that landscaping proposed by the project will include a sufficient number of trees to offset the loss of trees removed by the project. The species and exact number of trees to be planted on the site and on the street as part of the project will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement at the development permit stage. In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
 - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.
 - A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree

planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

- The project proponent will prepare the final landscape plan and submit it to the Director of Planning, Building, and Code Enforcement for approval prior to issuance of a Planned Development permit.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

3. Impact

Construction of the proposed project could damage the existing street trees which are proposed to be retained.

Mitigation

Pre-construction:

- The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
- Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be six-foot chain link or equivalent as approved by the consulting arborist. Fences will remain in place until all grading and construction is complete.
- Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arborists.

During Construction

- A certified arborist will establish a tree protection zone for each of the street trees prior to start of construction. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modification to the tree protection zone must be approved and monitored by the consulting arborist.
- Any root pruning or canopy pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.
- Any additional tree pruning needed for clearance during construction must be performed by or supervised by the consulting arborist and not by construction personnel.
- Supplemental irrigation shall be applied as determined by the consulting arborist.

- If injury should occur to any tree during construction, work will stop in the area around the tree and the damage shall be evaluated by the consulting arborist or that appropriate treatments can be applied.
- No materials or liquids of any kind can be dumped or stored within the designated tree protection zones.
- As trees withdraw water from the soil, expansive soils may shrink within the root area. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

C. CULTURAL RESOURCES

1. Impact

Approval of the proposed General Plan Amendment and implementation of the proposed project could result in the disturbance of previously unknown prehistoric or historic artifacts and/or human remains.

Mitigation

- A qualified archaeologist will be on-site to monitor the initial excavation of native soil once all pavement and engineered soil is removed from the project site. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on-site, no additional monitoring will be required.
- In the event that prehistoric or historic resources are encountered during monitoring of the excavation and/or grading of the site, all activity within a 150-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting investigative procedures and any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.
- In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies

the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

D GREENHOUSE GAS EMISSIONS

1. Impact

The Project will exceed the BAAQMD thresholds for GHG emissions and will generate emissions at levels which are considered to have a significant cumulative impact on the environment.

Mitigation

- Bicycle amenities will be provided for the Project, including one or more of the following:
 - Secure bicycle parking for retail employees
 - Bicycle racks for retail customers
 - Bike lane connections to the site
- Pedestrian facilities will include easy access and signage to bus stops and roadways that serve the major site uses (e.g., retail and office uses).
- Project site employers may be required to promote transit use by providing transit information and incentives to employees.
- Provide exterior electrical outlets to encourage use of electrical landscape.
- Provide 110- and 220-volt electrical outlets at loading docks for trucks with refrigeration units.
- Prohibit idling of trucks at loading docks for more than five minutes per State law and include signage indicating such a prohibition.
- Implement a landscape plan that provides drought tolerant shade trees along pedestrian pathways.
- Install programmable thermostat and lighting timers that maximize and maintain energy-efficient heating and cooling systems.
- During final design, the applicant shall develop Green Building standards that would reduce energy-related GHG emissions beyond 20 percent from those that would occur under current Title 24 Building Code requirements. The applicant shall present these to the City prior to issuance of a building permit.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact but not to a less than significant level. This impact would be **significant and unavoidable**.

E HAZARDS AND HAZARDOUS MATERIALS

1. Impact

Redevelopment of the project site could expose construction workers to residual contamination in the soil from previous land uses.

Mitigation

- A Site Management Plan (SMP) and a Health and Safety Plan (HSP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include but are not limited to:
 - Site control procedures to control the flow of personnel, vehicles, and materials in and out of the site
 - Measures to minimize dust generation, stormwater runoff, and tracking of soil off-site as well as to reduce the possibility of the creation of preferential pathways for chemicals of potential concern detected in groundwater beneath the site
 - Geotechnical recommendations to excavate and re-compact loose fill that may have been placed into the UST excavations. If pockets of suspected contaminated soil are encountered in these areas, protocols will be provided to segregate "clean" soil from contaminated soil.
 - Protocols for dewatering (if required)
 - Protocols for conducting earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected. Worker training requirements, health and safety measures, and soil handling procedures will be described.
 - Protocols for addressing buried structures, wells, debris, or unidentified areas of impacted soil encountered during site development activities
 - Protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse of the soil can be determined
 - Methods to monitor excavations and trenches for the presence of petroleum hydrocarbon vapors
 - Methods to evaluate and, if necessary, mitigate for vapor intrusion of petroleum hydrocarbons into proposed structures near the former service station area at 1600 Monterey Road
 - Procedures for handling and mitigating (i.e., capping on-site or off-site disposal) of impacted soil identified along the eastern and southern railroad tracks
 - Land use covenants and site operation and maintenance protocols to minimize the possibility of future disturbance and exposure of remaining residential contaminants.

- Prior to issuance of grading permits, a copy of the SMP and HSP will be provided to the appropriate regulatory agencies including DTSC, the Santa Clara County Environmental Health Department, and the Director of the City's Environmental Services Department for review and approval.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

2. Impact

Development of the project site could expose known arsenic contaminated soil and undocumented contamination.

Mitigation

- A Site Management Plan (SMP) and a Health and Safety Plan (HSP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include but are not limited to:
 - Site control procedures to control the flow of personnel, vehicles, and materials in and out of the site
 - Measures to minimize dust generation, stormwater runoff, and tracking of soil off-site as well as to reduce the possibility of the creation of preferential pathways for chemicals of potential concern detected in groundwater beneath the site
 - Geotechnical recommendations to excavate and re-compact loose fill that may have been placed into the UST excavations. If pockets of suspected contaminated soil are encountered in these areas, protocols will be provided to segregate "clean" soil from contaminated soil.
 - Protocols for dewatering (if required)
 - Protocols for conducting earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected. Worker training requirements, health and safety measures, and soil handling procedures will be described.
 - Protocols for addressing buried structures, wells, debris, or unidentified areas of impacted soil encountered during site development activities
 - Protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse of the soil can be determined
 - Methods to monitor excavations and trenches for the presence of petroleum hydrocarbon vapors
 - Methods to evaluate and, if necessary, mitigate for vapor intrusion of petroleum hydrocarbons into proposed structures near the former service station area at 1600 Monterey Road

- Procedures for handling and mitigating (i.e., capping on-site or off-site disposal) of impacted soil identified along the eastern and southern railroad tracks
 - Land use covenants and site operation and maintenance protocols to minimize the possibility of future disturbance and exposure of remaining residential contaminants.
- Prior to issuance of grading permits, a copy of the SMP and HSP will be provided to the appropriate regulatory agencies including DTSC, the Santa Clara County Environmental Health Department, and the Director of the City's Environmental Services Department for review and approval.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

F. HYDROLOGY AND WATER QUALITY

1. Impact

Construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that would temporarily contaminate runoff from the site.

Mitigation

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the winds shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- A Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff.

- The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.
- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant impact to a **less than significant level**.

G. NOISE

1. Impact

Construction of the proposed project will temporarily increase ambient noise levels at nearby sensitive land uses.

Mitigation

- Construction will be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9:00 am and 5:00 pm. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors, and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building and Code Enforcement, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.
- The contractor shall use "new technology" power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.

- Locate stationary noise generating equipment as far as possible from sensitive receptors. Stating areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Unnecessary idling of internal combustion engines shall be prohibited.
- The contractor shall prepare a detailed construction plan, to be approved by the Director of Planning, Building and Code Enforcement, indentifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

Finding

Implementation of the above Final EIR mitigation measures will reduce the potentially significant temporary impact to a **less than significant level**.

II. CUMULATIVE IMPACTS

A. GREENHOUSE GAS EMISSIONS

1. Description

The greenhouse gas emissions generated by the proposed Project would combine with emissions across the State, nation, and globe to cumulatively contribute to global climate change. Because the Project would exceed the adopted thresholds for individual projects, it is reasonable to assume that the Project’s contribution to global climate change would be cumulatively considerable; therefore, the proposed Project would make a cumulatively significant contribution to greenhouse gas emissions and implementation of the proposed project will result in a significant unavoidable global climate change impact.

Mitigation

- Bicycle amenities will be provided for the Project, including one or more of the following:

- Secure bicycle parking for retail employees
 - Bicycle racks for retail customers
 - Bike lane connections to the Project site
- Pedestrian facilities will include easy access and signage to bus stops and roadways that serve the major site uses (e.g., retail and office uses).
- Project site employers may be required to promote transit use by providing transit information and incentives to employees.
- Provide exterior electrical outlets to encourage use of electrical landscape.
- Provide 110- and 220-volt electrical outlets at loading docks for trucks with refrigeration units.
- Prohibit idling of trucks at loading docks for more than five minutes per State law and include signage indicating such a prohibition.
- Implement a landscape plan that provides drought tolerant shade trees along pedestrian pathways.
- Install programmable thermostat and lighting timers that maximize and maintain energy-efficient heating and cooling systems.
- During final design, the applicant shall develop Green Building standards that would reduce energy-related GHG emissions beyond 20 percent from those that would occur under current Title 24 Building Code requirements. The applicant shall present these to the City prior to issuance of a building permit.

Finding

Implementation of the above Final EIR project-level mitigation measures will reduce the potentially significant cumulative impact but not to a less than significant level. This impact would remain a **significant unavoidable cumulative impact**.

III. ALTERNATIVES TO THE PROPOSED PROJECT

A. NO PROJECT ALTERNATIVE

1. Description

Under the No Project alternative, the existing warehouse, office, and restaurant would continue their current operations on the southern portion of the site. The northern portion of the site would remain vacant.

2. Comparison to Proposed Project

The continued operation of the existing land uses on the project site would not result in any significant impacts, as defined by CEQA. Impacts from the continued operation of the existing land uses would be those that occur from the conditions reflected throughout this EIR in the sections entitled "Existing Setting".

Continued operations would not increase the severity of any impacts or result in any new impacts compared to the proposed project.

3. Finding

The No Project Alternative, assuming the continued use of the existing land uses on-site, would not achieve any of the project objectives and would leave more than half of the project site undeveloped and underutilized. Overall, the No Project Alternative would be environmentally superior to the project because it would avoid all new environmental impacts. The No Project Alternative would not, however, provide any new neighborhood serving retail or new jobs in close proximity to existing housing and transit services, nor would it provide pedestrian and bicycle trail access through the site or increased tax revenue to the City. Therefore, this alternative would not produce these important benefits of the proposed project. For the above-stated reasons, this Alternative is found infeasible and rejected.

B. REDUCED DENSITY ALTERNATIVE

1. Description

Under this alternative, the overall size of the proposed project would be reduced by approximately 46,666 square feet to 210,630 square feet. All other aspects of the proposed project, including demolition of all existing buildings, sustainable building design features, and site access would be the same as the proposed project. The overall site layout would be similar as well with larger stores near the rear of the site, a large parking area between the stores and the roadway, and smaller free-standing stores along the roadway frontage. The main driveway would still be part of a new signalized intersection at Monterey Road and Cottage Grove Avenue.

2. Comparison to Proposed Project

The extent to which the Reduced Density Alternative might reasonably be expected to result in lesser project impacts is discussed below for each of the areas of significant impact for the proposed project.

Under this alternative the reduced size of the retail center would result in overall fewer vehicle trips to/from the project site. As a result, vehicular air pollutant emissions would be reduced proportionately with reduction in project site and vehicle trip generation. The reduction in square footage would not, however, be sufficient to reduce the identified significant unavoidable greenhouse gas emissions impact to a less than significant level. All other identified impacts would be the same or incrementally less than the impacts of the proposed project.

3. Finding

The Reduced Density Alternative would have the same impacts as the proposed project but would be environmentally superior to the Project because it would incrementally lessen the identified impacts. It does not, however, reduce the significant unavoidable greenhouse gas emissions impact to a less than significant level. While the Reduced Density Alternative would meet some of the basic objectives of the proposed project it would provide less neighborhood serving retail and fewer jobs within close proximity to existing housing and transit than the proposed project and would provide less tax revenue to the City than the proposed project, without eliminating the significant unavoidable greenhouse gas emissions impact. For the above-stated reasons, this Alternative is found infeasible and rejected.

IV. MITIGATION MONITORING AND REPORTING PROGRAM

Attached to and adopted with this Resolution, and incorporated herein by reference, is the Mitigation Monitoring or Reporting Program for the Project (Exhibit A). The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

V. STATEMENT OF IMPACTS AND BENEFICIAL CONSIDERATIONS

The City Council of the City of San José adopts and makes the following Findings regarding the significant impacts of the Project and the anticipated benefits of the Project.

A. SIGNIFICANT IMPACTS

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that although the Project could result in significant impacts as disclosed in the Final EIR prepared for this Project, all but one impact would be reduced to a less than significant level by with implementation of proposed project mitigation. There is no feasible mitigation that would reduce the identified greenhouse gas emissions impact to a less than significant level.

B. BENEFICIAL CONSIDERATIONS

After review of the entire administrative record, including, but not limited to, the Final EIR, the staff report, applicant submittals, and the oral and written testimony and evidence presented at public hearings, the City Council finds that specific economic, legal, social, technological and other anticipated benefits of

the Project further justify the approval of this Project. The City Council specifically adopts and makes this Finding that this Project has eliminated or substantially lessened all significant effects on the environment, with the exception of the greenhouse gas emissions significant unavoidable impact. The Project will result in the following substantial benefits, which constitute specific economic, legal, social, technological and other considerations that further justify the approval of the Project: Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that that benefits of the Project outweigh its significant adverse environmental impact and is an overriding consideration warranting approval of the Project.

C. BENEFITS OF THE PROJECT

Approval of the Project would:

1. Create a community retail center along the southern gateway to downtown San José to further advance the Monterey Corridor Redevelopment Plan and the City of San José's Policy and Framework for the Preservation of Employment Lands.
2. Redevelop an underutilized site to revitalize the project area, introduce needed goods, services, and infrastructure to the project area, generate increased tax revenues to the City, and improve the City's jobs-housing imbalance by a net increase in the number of jobs in San José.
3. Contribute positively to the City's desired balance between the need to house a growing population and the need to balance the City's budget, while providing acceptable levels of City service.
4. Add full intersection signalization along Monterey Road at Cottage Grove Avenue.
5. Create a retail center located on a major thoroughfare with existing transit access and within a reasonable walking, biking, and transit distance to nearby residences.
6. Contribute to the continued expansion of the City's trail system by providing pedestrian and bicycle access through the site.

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7. Replace older building with more energy efficient buildings.

ADOPTED this day of June, 2011, by the following vote:

AYES:

NOES:

ABSENT:

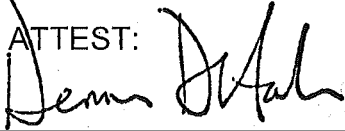
DISQUALIFIED:

VACANT



CHUCK REED
Mayor

ATTEST:



DENNIS D. HAWKINS, CMC
City Clerk

Exhibit A

75929

MITIGATION MONITORING OR REPORTING PROGRAM

**SUN GARDEN
REDEVELOPMENT PROJECT**

GP10-07-01 and PDC10-026

CITY OF SAN JOSÉ

June 2011

P R E F A C E

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring or Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring or reporting program is to ensure compliance with the mitigation measures during project implementation.

The Final EIR concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring or Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Final EIR concluded that the impacts from implementation of the project would be less-than-significant.

These Mitigation Monitoring and Reporting Program Mitigation Measures are to be included in all project Plans & Specs.

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
HYDROLOGY				
Construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that would temporarily contaminate runoff from the site. Significant Temporary Impact	<p>The following mitigation measures, based on RWQCB BMPs, are included in the project to reduce construction-related water quality impacts. All mitigation will be implemented prior to the start of earthmoving activities on site and will continue until the construction is complete.</p> <ol style="list-style-type: none"> 1) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains. 2) Earthmoving or other dust-producing activities shall be suspended during periods of high winds. 3) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary. 4) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered. 5) All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard. 6) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers). 7) Vegetation in disturbed areas shall be replanted as quickly as possible. 8) All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City. 9) A Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. 10) The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions. 11) When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site. <p>Less Than Significant with Mitigation</p>	Prior to the start of earthmoving activities on site and to continue until the construction is complete, during all phases of construction	Project developer / contractor	Director of Planning, Building and Code Enforcement Regional Water Quality Control Board

**MITIGATION MONITORING OR REPORTING PROGRAM
SUN GARDEN REDEVELOPMENT PROJECT**

Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
The following measures, based on RWQCB BMPs, have been included in the project to further reduce post-construction water quality impacts	As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, litter control, and other activities as specified by the City) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping. Less Than Significant with Mitigation	During construction and post-construction on-going site maintenance during the life of the project	Project developer / contractor and property manager	Director of Planning, Building and Code Enforcement Regional Water Quality Control Board
The following additional project specific mitigation measures have been included in the project to reduce storm water impacts	<ul style="list-style-type: none"> • The proposed project will be required to ensure continued maintenance and performance of all post-construction treatment control measures per City Council Policy 6-29. • Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific Best Management Practices (BMPs), including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled "No Dumping - Flows to Bay" to the satisfaction of the Director of Planning, Building, and Code Enforcement. • The project shall comply with provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development. • The project shall comply with applicable provisions of the following City Policies: <ol style="list-style-type: none"> 1) Post-Construction Urban Runoff Management Policy (6-29) which establishes guidelines and minimum BMPs for all projects and 2) Post-Construction Hydromodification Management Policy (8-14) which provides for numerically sized (or hydraulically sized) TCMs. Less Than Significant with Mitigation	During construction and post-construction on-going site maintenance during the life of the project	Project developer / contractor and property manager	Director of Planning, Building and Code Enforcement Regional Water Quality Control Board

**MITIGATION MONITORING OR REPORTING PROGRAM
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Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
BIOLOGICAL RESOURCES				
<p>Construction activities could result in the abandonment of active raptor nests or destruction of other migratory birds nests.</p> <p>Significant Impact</p>	<p>The following mitigation measures will be implemented prior to and during construction to avoid abandonment of raptor and other migratory bird's nests.</p> <p>1) Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February through August.</p> <p>2) If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet for raptors and 50-100 feet for other birds, to ensure that raptor or migratory bird nests will not be disturbed during project construction.</p> <p>Less Than Significant with Mitigation</p>	<p>Prior to issuance of demolition or grading permits or tree removals</p>	<p>Project Developer / Contractor</p>	<p>Director of Planning, Building and Code Enforcement California Department of Fish and Game</p>
<p>Implementation of the proposed project will result in the loss of 28 trees on the project site. Significant Impact</p>	<p>The project shall implement the following mitigation measures to avoid impacts to trees in accordance with City of San Jose Tree Removal Controls (SJM Title 13 Chapter 13.32)</p> <p>1) All trees that are to be removed shall be replaced at ratios required by the City.</p> <p>2) It is estimated, based on the site plan, that landscaping proposed by the project will include a sufficient number of trees to offset the loss of trees removed by the project.</p> <p>The species and exact number of trees to be planted on the site and on the street as part of the project will be determined in consultation with the City Arborist and the</p>	<p>Prior to issuance of demolition or grading permits, tree removals, issuance of occupancy permits</p>	<p>Project Developer / Contractor</p>	<p>Director of Planning, Building and Code Enforcement</p>

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
BIOLOGICAL RESOURCES Continued				
<i>See previous page</i>	<p>Department of Planning, Building, and Code Enforcement at the development permit stage. In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:</p> <ul style="list-style-type: none"> ○ The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees. ○ An alternative site(s) shall be identified for additional tree planting. ○ Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement. ○ A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit. <p>3) The project proponent will prepare the final landscape plan and submit it the Director of Planning, Building and Code Enforcement for approval prior to issuance of a Planned Development permit.</p> <p>Less Than Significant With Mitigation</p>	<i>See previous page</i>	<i>See previous page</i>	<i>See previous page</i>

**MITIGATION MONITORING OR REPORTING PROGRAM
SUN GARDEN REDEVELOPMENT PROJECT**

Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
<p>Construction of the proposed project could damage the existing street trees which are proposed to be retained.</p> <p>Significant Temporary Impact</p>	<p style="text-align: center;">BIOLOGICAL RESOURCES Continued</p> <p>The project shall implement the following tree protection measures to avoid impacts to existing trees that are to remain.</p> <p><u>Tree Preservation – Pre-Construction</u></p> <ol style="list-style-type: none"> 1) The applicant shall retain a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection. 2) Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be six-foot chain link or equivalent as approved by the consulting arborist. Fences will remain in place until all grading and construction is complete. 3) Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arborists. <p><u>Tree Preservation – During Construction</u></p> <ol style="list-style-type: none"> 1) A certified arborist will establish a tree protection zone for each of the street trees prior to start of construction. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modification to the tree protection zone must be approved and monitored by the consulting arborist. 2) Any root pruning or canopy pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist. 3) Any additional tree pruning needed for clearance during construction must be performed or supervised by the consulting arborist and not by construction personnel. 4) Supplemental irrigation shall be applied as determined by the consulting arborist. 5) If injury should occur to any tree during construction, work will stop in the area around the tree and the damage shall be evaluated by the consulting arborist so that appropriate treatments can be applied. 6) No materials or liquids of any kind can be dumped or stored within the designated tree protection zones. 7) As trees withdraw water from the soil, expansive soils may shrink within the root area. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. <p>Less Than Significant With Mitigation</p>	<p>Prior to issuance of demolition or grading permits</p> <p>During all phases of excavation / construction</p>	<p>Project Developer / Contractor</p>	<p>Director or Planning, Building and Code Enforcement</p>

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
HAZARDS AND HAZARDOUS MATERIALS				
Redevelopment of the project site could expose construction workers to residual contamination in the soil from previous land uses. Significant Impact	<p>The following mitigation measures will be implemented during construction to reduce hazardous materials impacts.</p> <p><u>On-Site Soil Contamination from Historic Cannery and Automotive Related Land Uses:</u></p> <p>A Site Management Plan (SMP) and a Health and Safety Plan (HSP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include but are not limited to:</p> <ol style="list-style-type: none"> 1) site control procedures to control the flow of personnel, 2) vehicles, and materials in and out of the site, 3) measures to minimize dust generation, stormwater runoff, and tracking of soil off-site as well as to reduce the possibility of the creation of preferential pathways for chemicals of potential concern detected in groundwater beneath the site, 4) geotechnical recommendations to excavate and re-compact loose fill that may have been placed into the UST excavations. If pockets of suspected contaminated soil are encountered in these areas, protocols will be provided to segregate "clean" soil from contaminated soil, 5) protocols for dewatering (if required), 6) protocols for conducting earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected. Worker training requirements, health and safety measures, and soil handling procedures will be described, 7) protocols for addressing buried structures, wells, debris, or unidentified areas of impacted soil encountered during site development activities, 8) protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse of the soil can be determined, 9) Methods to monitor excavations and trenches for the presence of petroleum hydrocarbon vapors, 10) Methods to evaluate and, if necessary, mitigate for vapor intrusion of petroleum hydrocarbons into proposed structures near the former service station area at 1600 Monterey Road, 11) Procedures for handling and mitigating (i.e., capping on-site or off-site disposal) of impacted soil identified along the eastern and southern railroad tracks, 12) Land use covenants and site operation and maintenance protocols to minimize the possibility 	<p>Prior to issuance of grading permits and during all phases of construction</p>	<p>Project Developer / Contractor</p>	<p>Director - City of San José Environmental Services Department</p> <p>Department of Toxic Substances Control</p> <p>Santa Clara County Environmental Health Department</p>

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
HAZARDS AND HAZARDOUS MATERIALS <i>Continued</i>				
<i>See Previous Page</i>	of future disturbance and exposure of remaining residual contaminants.	<i>See previous page</i>	<i>See previous page</i>	<i>See previous page</i>
Development of the project site could expose known arsenic contaminated soil and undocumented contamination. Significant Impact	<p>Prior to issuance of grading permits, a copy of the SMP and HSP will be provided to the appropriate regulatory agencies including DTSC, the Santa Clara County Environmental Health Department, and the Director of the City's Environmental Services Department for review and approval. Less Than Significant With Mitigation</p> <p>Same mitigation as listed above. Less Than Significant With Mitigation</p>	Prior to issuance of grading permits and during all phases of construction	Project Developer / Contractor	<p>Director - City of San José Environmental Services Department</p> <p>Department of Toxic Substances Control</p> <p>Santa Clara County Environmental Health Department</p>

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<p>Approval of the proposed project could result in the unexpected disturbance of previously unknown prehistoric or historic artifacts and/or human remains. Significant Impact</p>	<p style="text-align: center;">CULTURAL RESOURCES</p> <p>The following mitigation measures will be implemented during construction to avoid impacts to subsurface cultural resources.</p> <p>1) A qualified archaeologist will be on-site to monitor the initial excavation of native soil once all pavement and engineered soil is removed from the project site. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required.</p> <p>2) In the event that prehistoric or historic resources are encountered during monitoring of the excavation and/or grading of the site, all activity within a 150-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting investigative procedures and any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.</p> <p>3) In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.</p> <p>Less Than Significant With Mitigation</p>	<p>During all phases of excavation / construction</p>	<p>Project Developer / Contractor</p>	<p>Director of Planning, Building and Code Enforcement</p>

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Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
AIR QUALITY				
Construction activity emissions associated primarily with painting operations would have a significant air quality impact from ROG emissions. Significant Temporary Impact	The painting phase of construction will occur over a minimum of three months or at least 20 percent of all building materials that would normally be painted would use pre-coated or colored materials. Less Than Significant With Mitigation	During all construction activities	Project Developer / Contractor	Director of Planning, Building and Code Enforcement Bay Area Air Quality Management District
Construction activities will result in significant, temporary dust generation. Significant Temporary Impact	The project will implement the following mitigation measures to avoid temporary dust generation impacts. 1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day or apply (non-toxic) soil stabilizers. 2) All haul trucks transporting soil, sand, or other loose material shall be covered or required to maintain at least two feet for freeboard. 3) Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives. 4) Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff related impacts to water quality. 5) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 6) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). 7) Enclose, cover, water at least twice daily, apply	During all phases of construction.	Project Developer / Contractor	Director of Planning, Building and Code Enforcement Bay Area Air Quality Management District

**MITIGATION MONITORING OR REPORTING PROGRAM
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Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
<i>See previous page</i>	<p style="text-align: center;">AIR QUALITY Continued</p> <p>non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.</p> <p>8) All vehicle speeds on unpaved roads shall be limited to 15 mph.</p> <p>9) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</p> <p>10) Replant vegetation in disturbed areas as quickly as possible.</p> <p>11) Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.</p> <p>12) Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas.</p> <p>13) Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.</p> <p>14) Limit the area subject to excavation grading, and other construction activity at any one time.</p> <p>15) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>16) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>17) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>18) Post a publicly visible sign with the telephone number and name of construction contact person to report complaints to the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p style="text-align: center;">Less Than Significant With Mitigation</p>	<i>See previous page</i>	<i>See previous page</i>	<i>See previous page</i>

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
GREENHOUSE GAS EMISSIONS				
<p>The project will exceed the BAAQMD thresholds for GHG emissions and will generate emissions at levels which are considered to have a significant cumulative impact on the environment.</p> <p>Significant Impact</p>	<p>The project shall include the following mitigation measures to reduce vehicle travel and energy consumption that make up the majority of significant greenhouse gas emissions associated with the project.</p> <ol style="list-style-type: none"> 1) Bicycle amenities will be provided for the project, including one or more of the following: secure bicycle parking for retail employees, bicycle racks for retail customers, and bike lane connections to the site. 2) Pedestrian facilities will include easy access and signage to bus stops and roadways that serve the major site uses (e.g. retail and office uses). 3) Project site employers may be required to promote transit use by providing transit information and incentives to employees. 4) Provide exterior electrical outlets to encourage use of electrical landscape. 5) Provide 110- and 220-volt electrical outlets at loading docks for trucks with refrigeration units. 6) Prohibit idling of trucks at loading docks for more than five minutes per State law and include signage indicating such a prohibition. 7) Implement a landscape plan that provides drought tolerant shade trees along pedestrian pathways. 8) Install programmable thermostat and lighting timers that maximizing and maintaining energy-efficient heating and cooling systems. 9) During final design, the applicant shall develop Green Building standards that would reduce energy-related GHG emissions beyond 20 percent from those that would occur under current Title 24 Building Code requirements. The applicant shall present these to the City prior the issuance of a building permit. <p>Significant Unavoidable Impact with Mitigation</p>	All measures will be required in perpetuity for the useful life of the project.	Project Developer / Contractor	Director of Planning, Building and Code Enforcement

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
NOISE				
Construction of the proposed project will temporarily increase ambient noise levels at nearby sensitive land uses. Significant Impact	<p>Implementation of the following mitigation measures will reduce temporary construction noise impacts.</p> <p>1) Construction will be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.</p> <p>2) Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9:00 am and 5:00 pm. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted.</p> <p>3) The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building and Code Enforcement, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.</p> <p>4) The contractor shall use "new technology" power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.</p> <p>5) Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.</p> <p>6) Utilize "quiet" air compressors and other stationary noise sources where technology exists.</p> <p>7) Unnecessary idling of internal combustion engines shall be prohibited.</p> <p>8) The contractor shall prepare a detailed construction plan, to be approved by the Director of Planning, Building and Code Enforcement, identifying the schedule for major noise-generating construction activities. The construction plan shall identify a</p>	During all phases of construction	Project Developer / Contractor	Director of Planning, Building and Code Enforcement

MITIGATION MONITORING OR REPORTING PROGRAM SUN GARDEN REDEVELOPMENT PROJECT				
Impact	Mitigation	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
NOISE Continued				
<i>See previous page</i>	<p>procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. 9) Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.</p> <p>Less Than Significant With Mitigation</p>	<i>See previous page</i>	<i>See previous page</i>	<i>See previous page</i>

SOURCE: City of San José, *Sun Garden Redevelopment Final Environmental Impact Report*, May 2011.